

### REMARKS

Applicant requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-38 are pending in the application with, Claims 1, 24, 29, 30, 32, 34, 36, and 38 being independent. Claims 1, 24, 29, 30, 32, and 34 have been amended. No new matter has been added.

#### *Request for Interview*

Initially, in the Office Action, the Examiner encouraged Applicant to set up an interview. Applicant's representative contacted the Examiner on February 25, 2005, to schedule an interview. However, an interview could not be scheduled prior to the next due date for response, because the Examiner was moving to a new office and would not have access to his computer. Accordingly, Applicant requests that, prior to acting on this amendment, the Examiner contact Applicant's undersigned representative to schedule an interview.

#### *Claim Rejections*

In the Office Action, Claims 1-38 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,861,891 (Becker), in view of U.S. Patent No. 6,147,690 (Cosman) and U.S. Patent No. 5,396,594 (Griffith et al.). This rejection is respectfully traversed. As discussed in more detail below, it would not have been obvious to modify the teachings of the Becker patent as suggested in the Office Action, because to do so would render the Becker patent unsatisfactory for its intended purpose. Moreover, even if the cited documents could be

combined as suggested in the Office Action, the combination still would not disclose important features of Applicant's invention. Nevertheless, without conceding the propriety of the rejection, Claims 1, 24, 29, 30, 32, and 34 have been amended herein to even more clearly recite features of Applicant's invention.

Independent Claim 1 is directed to a method of generating a colored or shaded texture for images. As presently presented, Claim 1 recites, *inter alia*, providing a plurality of shape elements, providing each of the shape elements with an opacity that varies over its surface, identifying a plurality of substantially equidistant points within a predetermined region of the images, and placing a shape element at each identified point, wherein the shape elements overlap to fill the predetermined region of the images such that the region when so filled has a substantially uniform opacity.

The Becker patent is directed to a method of visually approximating scattered data, and discloses that bins, representing clouds of scattered data points, are volume rendered as splats. The splats may be any shape used to build a transparent volume. However, the Becker patent fails to disclose or suggest filling a predetermined region of an image such that the region when so filled has a substantially uniform opacity. The Office Action acknowledges this deficiency on page 5, lines 6 and 7, stating "that Becker and Cosman fail to explicitly teach [that] the region has a substantially uniform opacity." However, in response to Applicant's argument to that effect in the June 7, 2004 response, the Office Action on page 2 interprets this feature to be "equivalent to transparency." While the Becker patent does refer to transparency, it does not disclose or suggest filling a region such that the region has a uniform transparency (or a uniform opacity) when filled. When the Becker patent refers to transparent volumes, such volumes do not

have a constant transparency or opacity. Rather, the Becker patent refers specifically to Gaussian splats, that are mostly opaque at their center and approach zero opacity, according to a Gaussian function, in every radial direction. See, e.g., col. 3, lines 50-61. Thus, the Becker patent fails to disclose or suggest filling regions so as to have substantially uniform opacity or substantially uniform transparency.

The Cosman patent is directed to a pixel shading system, but fails to disclose or suggest the features of independent Claim 1 that are lacking from the Becker patent. As noted above, the Office Action acknowledges this on page 5, lines 6 and 7, stating “that Becker and Cosman fail to explicitly teach [that] the region has a substantially uniform opacity.”

The Griffith et al. patent is directed to a computer used to combine images by video treatment, and provides for three different types of overlay. The second type of overlay discussed, from col. 4, line 62, through col. 5, line 5, relates to combining an overlay of uniform opacity with a background image used in a cartoon image system. When cartoon images are generated in which a part of an image is successively displaced between images, the previous few images can be combined to show the previous few positions of a component. This allows the next image to be edited in order to show a corresponding displacement of the image component in the present image in order that on successive display of the component images, a steady movement of the image component will be shown. Thus, the Griffith et al. patent describes combining a component of a cartoon image having uniform opacity, with a background image.

The Office Action asserts that it would have been obvious to “enable the region [having] a substantially uniform opacity of Griffith to the system of Becker and Cosman to merge an image and a mask to form an image for display.” Applicant respectfully disagrees, because

the Becker patent teaches away from such a combination and, even if, for the sake of argument, such a combination were proper, the combination still does not teach important features of Applicant's invention as recited in independent Claim 1.

The Becker patent teaches away from the proposed combination, because the combination would render the Becker patent unsatisfactory for its intended purpose. MPEP § 2143.01 provides that if the proposed modification would render the prior art unfit for its intended purpose, then there is no suggestion or motivation to make the proposed modification. As described above, the Becker patent relies on variations in opacity to visually approximate the distribution of data in a scattered plot. Imposing a uniform opacity on this system would prevent scattered data from being observed. Thus, because the proposed modification of the Becker patent would render it unfit for its intended purpose, the combination would not have been obvious.

Even if, for the sake of argument, the documents could be combined as suggested in the Office Action, the combination still lacks important features of Applicant's invention, as recited in independent Claim 1. Specifically, Applicant submits that the proposed combination still fails to disclose or suggest at least the features of placing shape elements having an opacity that varies in an overlapping fashion to fill a predetermined region of an image, such that the region when so filled has a substantially uniform opacity.

Accordingly, Applicant submits that Claim 1 is patentable over the cited documents.

Independent Claims 24, 29, 30, 32, 34, 36, and 38 include features similar to those discussed above with respect to Claim 1, and are patentable for reasons substantially similar to those discussed above with respect to Claim 1.

The dependent claims also are allowable for the same reasons as the independent claims from which they depend, as well as for the additional features that they recite. Individual consideration of the dependent claims is respectfully requested.

As noted above, Applicant respectfully requests that the Examiner contact Applicant's attorney to schedule an interview to discuss the foregoing amendments and remarks.

This Amendment After Final Rejection is an earnest attempt to advance prosecution and reduce the number of issues, and is believed to clearly place this application in condition for allowance. This Amendment was not earlier presented because Applicant earnestly believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of this Amendment under 37 CFR 1.116 is respectfully requested.

Applicant submits that the present application is in condition for allowance. Favorable reconsideration, withdrawal of the rejection set forth in the above-noted Office Action, and an early Notice of Allowability are requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'David A. Divine', written over a horizontal line.

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